

**AMENDMENTS TO THE CLAIMS**

Please amend the specification pursuant to 37 C.F.R. 1.121 as follows:

1. (Currently amended) A method for identifying a diseased cancer cell or tissue, said cancer cell disease being associated with elevated abnormal CAP43 expression, which method comprises detecting, in a cell or tissue, an elevated level of a CAP43 gene product.

2. (Previously presented) A method according to claim 1 wherein the CAP43 gene product is encoded by:

- (a) a nucleic acid having the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1);
- (b) a nucleic acid that hybridizes to the complement of the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1); or
- (c) a nucleic acid at least 70% identical, at the nucleotide level, to the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1).

3. (Previously presented) A method according to claim 1 wherein the CAP43 gene product is a polypeptide comprising:

- (a) the amino acid sequence set forth in FIG. 1B (SEQ ID NO:2); or
- (b) an amino acid sequence at least 70% identical to the sequence set forth in FIG. 1B (SEQ ID NO:2).

4. (Previously presented) A method according to claim 1 wherein the CAP43 gene product is detected by an antibody that specifically binds to a CAP43 polypeptide.

5. (Previously presented) A method according to claim 4 wherein the antibody is detectably labeled.

6. (Previously presented) A method according to claim 4, which method comprises steps of:

- (a) applying the antibody to a cell or tissue; and
- (b) detecting binding of the antibody to a CAP43 polypeptide.

7. (Previously presented) A method according to claim 6 wherein the antibody is applied *in situ* to the cell or tissue.

8-9. (Cancelled)

10. (Currently amended) A method according to claim [[9]] 1 wherein the cancer is a lung cancer, ~~a colon cancer~~, a kidney cancer, a breast cancer, a prostate cancer, a melanoma, ~~a lymphoma~~, or a malignant fibrous ~~histiocytoma~~ histiocytoma.

11-24. (Cancelled)

25. (Currently amended) A method for diagnosing, in an individual, a disease cancer associated with elevated abnormal CAP43 expression, which method comprises detecting, in a sample from the individual, an elevated level of a CAP43 gene product.

26. (Previously presented) A method according to claim 25 wherein the CAP43 gene product is encoded by:

- (a) a nucleic acid having the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1);
- (b) a nucleic acid that hybridizes to the complement of the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1); or
- (c) a nucleic acid having a nucleotide sequence at least 70% identical to the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1).

27. (Previously presented) A method according to claim 25 wherein the CAP43 gene product is a polypeptide comprising:

- (a) the amino acid sequence set forth in FIG. 1B (SEQ ID NO:2); or
- (b) an amino acid sequence at least 70% identical to the sequence set forth in FIG. 1B (SEQ ID NO:2).

28. (Previously presented) A method according to claim 25 wherein the gene product is detected by an antibody that specifically binds to a CAP43 polypeptide.

29. (Previously presented) A method according to claim 28 wherein the antibody is detectably labeled.

30. (Previously presented) A method according to claim 28, which method comprises steps of:

- (a) applying the antibody to the sample; and
- (b) detecting binding of the antibody to a CAP43 polypeptide.

31. (Previously presented) A method according to claim 25 wherein the sample is a body fluid sample.

32. (Previously presented) A method according to claim 31 wherein the body fluid sample is a blood sample.

33. (Previously presented) A method according to claim 25 wherein the sample is a cell or tissue sample.

34. (Cancelled)

35. (Currently amended) A method according to claim [[34]] 25 wherein the cancer is a lung cancer, ~~a colon cancer~~, a kidney cancer, a breast cancer, a prostate cancer, melanoma, ~~a lymphoma~~ or a malignant fibrous ~~histo~~cytoma.

36-50. (Cancelled)

51. (Previously presented) A method for identifying a cancer cell or tissue, which method comprises detecting, in a cell or tissue, an elevated level of a CAP43 gene product, wherein the CAP43 gene product has an amino acid sequence:

(a) encoded by a nucleic acid having the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1);

(b) encoded by a nucleic acid that hybridizes to the complement of the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1);

(c) encoded by a nucleic acid having a nucleotide sequence at least 70% identical to the sequence set forth in FIG. 1A (SEQ ID NO:1);

(d) comprising the amino acid sequence set forth in FIG. 1B (SEQ ID NO:2); or

(e) comprising an amino acid sequence at least 70% identical to the sequence set forth in FIG. 1B (SEQ ID NO:2).

52. (Currently amended) A method according to claim 51 wherein the cancer is a lung cancer, ~~a colon cancer~~, a kidney cancer, a breast cancer, a prostate cancer, a melanoma, ~~a lymphoma~~, or a malignant fibrous ~~histo~~cytoma histiocytoma.

53-54. (Cancelled)

55. (Previously presented) A method for diagnosing a cancer in an individual, which method comprises detecting, in a sample from the individual, an elevated level of a CAP43 gene product,

wherein the CAP43 gene product has an amino acid sequence:

(a) encoded by a nucleic acid having the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1);

(b) encoded by a nucleic acid that hybridizes to the complement of the nucleotide sequence set forth in FIG. 1A (SEQ ID NO:1);

(c) encoded by a nucleic acid having a nucleotide sequence at least 70% identical to the sequence set forth in FIG. 1A (SEQ ID NO:1);

(d) comprising the amino acid sequence set forth in FIG. 1B (SEQ ID NO:2); or

(e) comprising an amino acid sequence at least 70% identical to the sequence set forth in FIG. 1B (SEQ ID NO:2).

56. (Currently amended) A method according to claim 55 wherein the cancer is a lung cancer, ~~a colon cancer~~, a kidney cancer, a breast cancer, a prostate cancer, a melanoma, ~~a lymphoma~~, or a malignant fibrous histiocytoma histiocytoma.

57-102. (Cancelled)